



# CANADA-NEWFOUNDLAND AND LABRADOR BENEFITS PLAN GUIDELINES (DRAFT)

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## 1.0 INTRODUCTION

### 1.1 Overview

The Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB or ‘the Board’) is responsible for management of the petroleum<sup>1</sup> resources in the Canada-Newfoundland and Labrador Offshore Area, pursuant to the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act*, and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act* (the *Accord Acts* or ‘the legislation’)<sup>2</sup>.

Section 45 of the *Accord Acts* requires that a “Canada-Newfoundland and Labrador Benefits Plan” must be submitted and approved before any petroleum work or activity can take place in the Canada-Newfoundland and Labrador Offshore Area.

*45.(2) Before the Board approves any development plan under subsection 139(4) or authorizes any work or activity under paragraph 138(1)(b), a Canada–Newfoundland and Labrador benefits plan shall be submitted to and approved by the Board, unless it directs that that requirement need not be complied with.*

Subsection 151.1(1) of the *Accord Acts* authorizes the Board to issue and publish in such manner as it deems appropriate guidelines and interpretation notes with respect to the application and administration of section 45 and the preparation of a Canada-Newfoundland and Labrador Benefits Plan (Benefits Plan).

A Benefits Plan must contain sufficient information to satisfy the Board that the provisions of section 45 of the *Accord Acts* are respected. These Guidelines have been issued to assist proponents and interest owners in complying with the legislation and the Board’s requirements, interpretations, and expectations for initial Benefits Plan Applications, existing Benefits Plans, and amendments to Benefits Plans (any reference to a Benefits Plan herein also includes any amendment). Further, revisions to these Guidelines will be made as required in an effort to ensure that the Guidelines are continuously improved.

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<sup>1</sup> C-NAAIA, Section 2.

<sup>2</sup> References are made to the federal version. The *Accord Acts* can be accessed through the Board’s website ([www.cnlopb.ca](http://www.cnlopb.ca)).

## 1.2 Relationship of Benefits Plans to Development Plans

The *Accord Acts* establish the requirements that proponents of offshore petroleum development projects must fulfill in order to obtain approval of a Development Plan. An Application for a [Development Plan](#) shall be comprised of a Benefits Plan and a Development Plan with ancillary documents. A summary of the Benefits Plan should be included in the Development Application Summary.

**The Board's approval of a Benefits Plan is a prerequisite to the Board's approval of a Development Plan Application.**

Approval of a Development Plan is a fundamental decision of the Board; it must be subsequently approved by Ministers to take effect. **Approval of a Benefits Plan is not a fundamental decision, and therefore not subject to approval by Ministers.**

However, the *Accord Acts* require that the Board consult with both governments during its consideration of a Benefits Plan on the extent to which the plan meets the benefits requirements in the legislation.

*45.(5) In reviewing any Canada–Newfoundland and Labrador benefits plan, the Board shall consult with both Ministers on the extent to which the plan meets the requirements set out in subsections (1), (3) and (4).*

*(6) Subject to any directives issued under subsection 42(1), the Board may approve any Canada–Newfoundland and Labrador benefits plan.*

As well, proponents should be aware that the responsible ministers in the Provincial and Federal governments have authority to issue joint directives to the Board in relation to Canada-Newfoundland and Labrador Benefits Plans and any of the provisions thereof. Proponents are therefore encouraged to consult with governments during the preparation of a Benefits Plan.

## 1.3 Benefits Plan Requirements

A Benefits Plan for a project<sup>3</sup> should describe the proponent's commitment to, and plans for, complying with the statutory requirements as provided in Sections 45 (1), (3) and (4) of the *Accord Acts* (See Section 2.0).

The Benefits Plan should also provide an overview of the project to be undertaken, describe a proponent's policies and procedures related to the above statutory requirements, provide a capacity assessment for goods and services and labour, and describe the consultative,

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<sup>3</sup> Where the word "project" is used in these guidelines it shall be understood to refer to all activity associated with the project, which includes both the development (construction) phase and operations phase. Accordingly, the Benefits Plan should address both the development and operations phases of a project.

monitoring and reporting procedures the proponent intends to establish to achieve these objectives. These requirements are described in more detail in the following sections of the Guidelines.

The Board stresses the importance of early consultation with proponents in the preparation of a Benefits Plan. This early consultation is intended to assist the proponent in understanding the legislation and the Board's guidance in preparing a Benefits Plan. The Board's participation in early consultations with a proponent will not prejudice any decisions the Board may make with respect to a Benefits Plan. However, it is intended that such consultations, if diligently pursued, should facilitate the preparation of a comprehensive Benefits Plan, and expedite its consideration by the Board upon submission.

## **1.4 Exploration Benefits Plan**

Guidance with respect to Benefits Plans for exploration programs is provided in Appendix 1.

## **1.5 Benefits Plan Amendments and Supplements**

At any time during a project's life, where a proponent presents a Development Plan Amendment for consideration by the Board, the Board may determine that a Benefits Plan Amendment or Supplement may be required. Generally, an amendment will be required when the proposed activity will generate substantial industrial benefits, requiring a need to understand associated contracting and employment strategies and other relevant benefits information. In cases where a proposed activity provides reduced opportunities for benefits, a supplement may be required. The scope and content of these documents will be finalized following consultation between the Board and the proponent on a case-by-case basis.

In the preparation of new Benefits Plans, proponents should acknowledge that the submission of a Development Plan Amendment during the life of a project may also require the submission of a Benefits Plan Amendment or Benefits Plan Supplement.

## **1.6 Benefits Agreements**

Benefits Agreements are industrial benefits agreements between the Government of Newfoundland and Labrador and a proponent. The Board has no statutory duty with respect to such agreements either in terms of negotiating, monitoring, or enforcing such agreements. However, these agreements typically include clauses specifying that such agreements will be provided to the Board for monitoring and oversight. In cases where the Board agrees to provide monitoring and oversight duties, the Board's role would be to monitor benefits agreement reports from proponents on a regular basis, and to identify areas of non-conformance. The Board would then notify the Government of Newfoundland and Labrador of

such non-conformances, which is then responsible for resolving the matter in accordance with the provisions of the agreement.

## 1.7 Socio-Economic Impact Statement

Depending on the nature of a project, the Board may require the proponent to submit, as part of its Development Plan Application, a Socio-Economic Impact Statement (SEIS).

A Socio-Economic Impact Assessment (SEIA) is a systematic analysis used to identify and evaluate the potential socio-economic changes (impacts) and consequences (effects) resulting from a proposed project on the lives and circumstances of people, their families and their communities.

The product of an SEIA is the SEIS, the purpose of which is to provide the Board with information on a project's social and economic impacts and effects and thus enable the Board to make informed decisions regarding the proposal. As appropriate, the SEIS will also guide the Board in determining any specific requirements regarding the management of impacts and any follow-up of their effects during the development, operations and decommissioning of the project.

The SEIS Guidelines outline the Board's expectations for assessing and managing the socio-economic impacts and their effects of offshore petroleum projects. Socio-economic effects may be adverse or beneficial, and in some cases both, potentially affecting stakeholder groups in different ways at different times. The management of those effects includes ways of avoiding adverse effects where possible, mitigating them if not, and creating or enhancing beneficial effects where there are the opportunities to do so.

Guidance with respect to the preparation of a SEIS is provided in Appendix 5.

## 1.8 Public Review Process

The submission and approval of a Benefits Plan is subject to the requirements established by the *Accord Acts*. One of those requirements is that a Benefits Plan may be subject to a public review process, unless the Board determines that, in the public interest, a public hearing is not required.

A complete description of the public review process is contained in Chapter Six of the [Development Plan Guidelines](#).

## 2.0 STATUTORY REQUIREMENTS

The statutory requirements of a Benefits Plan are described in section 45 of the legislation. An explanation of each of these requirements follows below. Proponents are expected to address each of

these requirements in its Benefits Plan. Proponents should also note that these obligations also apply to any contractors and sub-contractors engaged by the proponent to conduct work on its behalf.

## 2.1 Office in the Province

Section 45(3)(a) of the legislation requires that:

*before carrying out any work or activity in the offshore area, the corporation or other body submitting the plan shall establish in the Province an office where appropriate levels of decision-making are to take place;*

This provision requires that a proponent establish an office in the Province with appropriate decision-making authority. However, it is recognized that the size of the local office will depend upon the level, duration and magnitude of activity taking place in the Canada-Newfoundland and Labrador Offshore Area, provided that the number of employees can support the appropriate level of decision making.

## 2.2 Full and Fair Opportunity and Competitive Basis

Section 45(1) of the legislation requires that a proponent prepare a Benefits Plan which is:

*...a plan for the employment of Canadians and, in particular, members of the labour force of the Province and, subject to paragraph (3)(d), for providing manufacturers, consultants, contractors and service companies in the Province and other parts of Canada with a full and fair opportunity to participate on a competitive basis in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.*

Proponents must provide a full and fair opportunity for businesses in the Province and other parts of Canada to participate in supplying goods and services used in carrying out work activities. Providing a full and fair opportunity means that the proponent must demonstrate that efforts have been taken, to the satisfaction of the Board, to ensure that Canadian suppliers have been afforded an opportunity to participate in the contracting process (on a competitive basis). Therefore, proponents and contractors are encouraged to limit bids to Canadian suppliers; or, in the event there is a single supplier in Canada, to sole source that supplier.

Proponents must ensure their contracting strategies do not unfairly disadvantage Canadian suppliers. For example, work scopes should be sized appropriately in quantity and geographic scope, in recognition of the capabilities of the supply community. Also, the use of global frame agreements, or contracting arrangements of a similar nature, may not be viewed as providing full and fair opportunity to local and other Canadian suppliers to participate in the procurement process on a competitive basis.

Selecting suppliers on a competitive basis means that the selection must be determined on the basis of fair market price, quality and delivery. Local suppliers of goods and services that are competitive on those terms should be given first consideration – see section 2.4.

## 2.3 First Consideration - Employment

Section 45(3)(b) of the legislation requires that the proponent provide provisions in its Benefits Plan for first consideration for employment of local residents:

*consistent with the Canadian Charter of Rights and Freedoms, individuals resident in the Province shall be given first consideration for training and employment in the work program for which the plan was submitted and any collective agreement entered into by the corporation or other body submitting the plan and an organization of employees respecting terms and conditions of employment in the offshore area shall contain provisions consistent with this paragraph;*

The Board defines a Newfoundland and Labrador resident as a Canadian citizen (or Permanent Resident) who meets the residency requirements of the Province as defined by *The Election Act, SNL 1992, CE-3.1* (i.e., location of principal residence in the Province).

This “first consideration” provision of the legislation clearly requires that the proponent and its contractors look first to the Newfoundland and Labrador labour market to meet their human resource requirements. Proponents and contractors have the right to establish, in advance of the recruitment process, the qualifications, experience and competencies required of candidates for employment. However, the “first consideration” requirement means that once the requirements for a position have been established, a Newfoundland and Labrador resident who meets these requirements will be given employment preference over non-residents. The Board also interprets first consideration for Newfoundland and Labrador residents to be a continuing obligation during the course of employment.

## 2.4 First Consideration - Procurement

Section 45(3)(d) of the legislation provides that:

*first consideration shall be given to services provided from within the Province and to goods manufactured in the Province, where those services and goods are competitive in terms of fair market price, quality & delivery.*

This “first consideration” provision of the legislation clearly requires that the proponent and its contractors look first to the Newfoundland and Labrador market to meet their requirements for goods and services.

It is the Board's expectation that in cases where a local supplier is not the low bidder with respect to price, but is competitive in relation to the low bidder, and meets or is comparable to other evaluated factors (e.g., technical, HSE, benefits, etc.), consideration should be given to award the work to the local supplier.

Proponents are encouraged to consult with the Board when such matters arise.

Further to the guidance provided above, the Board encourages a proponent and its contractors to limit bids only from suppliers from within the Province, should there be competitive capacity in the Province. The Board interprets that this would be consistent with the "first consideration" intent of the legislation. Also, a proponent and its contractors would be meeting the intent of the legislation if they choose to sole source from within the Province where there is only one supplier in the Province.

## 2.5 Research and Development and Education and Training

Section 45(3)(c) of the legislation requires that each Benefits Plan contain provisions intended to ensure that:

*expenditures shall be made for research and development to be carried out in the Province and for education and training to be provided in the Province;*

The legislation does not provide any further direction to proponents on how to meet this obligation. Therefore, the Board has established additional guidance specifically relating to these expenditures (see Appendix 2).

## 2.6 Designated Groups

Section 45(4) of the legislation grants the Board authority to require a proponent to include provisions in a Benefits Plan to:

*...ensure that disadvantaged individuals or groups have access to training and employment opportunities and to enable those individuals or groups or corporations owned or cooperatives operated by them to participate in the supply of goods and services used in any proposed work or activity referred to in the benefits plan.*

Accordingly, proponents' Benefits Plans are expected to include a Diversity Plan. This may be filed with the Board as an intrinsic part of the Benefits Plan, or as a stand alone document. In the context of a Diversity Plan, disadvantaged individuals or groups (the Board refers to these as "designated groups" throughout this Guideline) are considered to include: women, aboriginal groups, persons with disabilities and members of visible minorities.

The proponent is expected to review, assess and apply models such as the federal *Employment Equity Act*, the Federal Contractors Program, and other models as appropriate in preparing its Diversity Plan. Such plans will normally encompass employment equity measures with an explicit objective to facilitate the participation of designated groups.

The Board has identified 14 key elements that will be used as the criteria to assess the adequacy of a Diversity Plan.

### **Data Collection**

The Diversity Plan should provide for collecting information and conducting an analysis of the proponent's workforce to determine the degree of underrepresentation of persons in designated groups in each occupational group in that workforce.

### **Elimination of Employment Barriers**

The Diversity Plan should provide for a review of the proponent's and its main contractors' employment systems, policies and practices to identify employment barriers against persons in designated groups.

### **Goal Setting**

Consistent with the *Employment Equity Act*, the Diversity Plan should acknowledge the need to establish both short and long term goals for increasing representation of persons in designated groups.

### **Accommodations for Diversity**

The Diversity Plan should describe how the design of facilities takes account of the need to accommodate persons from designated groups and, more generally, to ensure that policies and procedures accommodate persons from designated groups.

### **Supportive Work Environment**

The Diversity Plan should describe how practices, policies and procedures aimed at implementing a supportive work environment that fosters diversity and inclusion (family-friendly, work/life balance, adaptive technologies for persons with disabilities, etc.) will be established both internally within the proponent's organization, as well as within its main contractors' organizations.

### **Education**

The Diversity Plan should outline measures to educate and inform members of the proponent's and main contractors' workforces of employment equity and diversity, and

to ensure that there is a culture within the organization that is consistent with the provisions of employment equity.

### **Implementation**

The Diversity Plan should establish timelines for implementation of the described initiatives.

### **Participation of Corporations and Firms**

Measures to address the participation of corporations or firms owned by designated groups to supply goods and services to the project should be covered by the Diversity Plan.

### **Contractor and Sub-contractor**

An essential element of a Diversity Plan is to involve both contractors and sub-contractors in the commitment of a diverse workforce. It is the responsibility of the proponent to ensure diversity practices are contractually passed along to contractors and sub-contractors. An acceptable Diversity Plan would demonstrate contractor and sub-contractor commitments to setting diversity goals and submitting annual reports on their accomplishments to the proponent.

### **Recruitment**

Proponents should give proper consideration to, and assist in providing recommendations for, diversity related language to be built into job postings and labour agreements to ensure that members of designated groups have access to employment opportunities. The Diversity Plan should outline measures to ensure job ads reach members of designated groups. Where the labour force is covered by a collective agreement(s), this aspect should also be addressed.

### **Public Information Initiatives**

The Diversity Plan should describe public information initiatives to be undertaken in partnership with community stakeholders to familiarize members of designated groups with the project and the types of employment, training and contracting opportunities associated with it.

### **Gender Equity Strategies**

The Diversity Plan should describe strategies respecting initiatives to achieve gender equity. Practical examples may include increasing women's representation through mentoring, special assignments and management training.

## **Outreach Initiatives**

The Diversity Plan should include specific outreach initiatives aimed to build relationships with community groups. The Plan should describe how partnering with local community organizations which represent members of designated groups to raise awareness of employment and business opportunities will be achieved.

## **Liaise with Educational Institutions**

The Diversity Plan should describe how partnering with local training institutions to promote education and employment opportunities to members of designated groups will be achieved.

## **2.7 Collective Agreements**

A proponent must ensure that the language of any collective agreement(s) is in compliance with Section 45(3)(b):

*consistent with the Canadian Charter of Rights and Freedoms, individuals resident in the Province shall be given first consideration for training and employment in the work program for which the plan was submitted and any collective agreement entered into by the corporation or other body submitting the plan and an organization of employees respecting terms and conditions of employment in the offshore area shall contain provisions consistent with this paragraph;*

## **3.0 PROPONENT'S POLICIES AND PROCEDURES**

The proponent's commitment to the statutory requirements as described in the preceding sections should be reflected in its proposed policies and procedures for planning and executing the project. The acceptability of the proponent's policies and procedures will be determined by its commitment to the six categories discussed in this section. Proponents are expected to address each of these categories in its Benefits Plan.

### **3.1 Benefits Management**

The proponent should commit in its Benefits Plan to develop a benefits management systems and procedures manual to ensure adherence by contractors and subcontractors to the commitments and principles in the proponent's Benefits Plan. The systems and procedures manual should specify clearly that contractors and subcontractors have the same level of obligation to the proponent's benefits commitments and philosophies as does the proponent. This document should be submitted to the Board for review within thirty days following a decision by the proponent to proceed with the development phase of a project.

## 3.2 Level of Work Activity in the Province and Canada

While the Board does not set targets for the level of work activity in the Province or in Canada, the level of employment and work activity are major considerations in the Board's review and approval of Benefits Plans. Therefore, the proponent's Benefits Plan should provide an estimate or overview of major work activities committed or expected to take place in the province and other parts of Canada, in particular for engineering, project management and fabrication activities (also see section 4.0 Capacity Assessment).

Summary tables of project expenditures and project employment for the development phase for each major project component, categorized by Newfoundland and Labrador, other Canadian, and foreign content should be provided. Estimates of expenditure content and employment content should be consistent with guidance provided in Appendix 4.

The Board recognizes these estimates are typically calculated at the time of Front End Engineering Design (FEED), are subject to competitive contracting processes, and therefore subject to change.

## 3.3 Project Management and Engineering

Project management and engineering services can represent significant benefits to Newfoundland and Labrador, and Canada, in every project. The proponent should describe its approach to the management and engineering of the project, including its plans concerning:

- contracting strategy for, including proposed location of FEED and detailed design for major components of the project; and
- extent and type of participation by Canadian and, in particular, Newfoundland and Labrador engineering firms and individual contractors, in project management and engineering activities.

## 3.4 Supplier Development

The objective of supplier development is to develop reliable domestic sources of goods and services for the local and Canadian oil and gas sector. The proponent is expected to describe its plans for:

- initiatives to provide timely information concerning project requirements for goods and services to Newfoundland and Labrador and other Canadian suppliers and contractors;
- assessment of Newfoundland and Labrador and other Canadian supply capabilities, including the identification of constraints and new supply opportunities;

- specific initiatives to transfer technology to Newfoundland and Labrador and other Canadian suppliers and contractors;
- visits to facilities to review procedures, equipment and personnel qualifications to ascertain and develop the competitive capabilities of Newfoundland and Labrador and other Canadian suppliers; and,
- programs, policies or procedures to enable Newfoundland and Labrador and other Canadian suppliers to participate in the proponent's national and international activities, when requested by Newfoundland and Labrador and other Canadian suppliers and contractors.

### 3.5 Procurement and Contracting

The proponent is expected to describe its contracting strategy for goods and services for the project. In particular, major contracts should be identified, as well as strategies for subcontracting and the packaging of contracts.

Strategies for the packaging of contracts should be reasonable, to enable opportunities for participation by local and Canadian manufacturers, fabricators and suppliers. For example, the scope of work for a particular contract may be so large as to limit full and fair opportunity for local and Canadian companies; this may be contrary to benefits legislation. Appropriate bundling of contracts may be a major consideration in the Board's review and approval of a Benefits Plan.

The proponent should also describe its plans concerning:

- a commitment to provide full and fair opportunity to companies in the province and the rest of Canada, with first consideration to goods and services from the province, on a competitive basis;
- preparation of bid specifications and packages in such a manner, and on a timely basis, to ensure that they provide full and fair opportunity for qualified Newfoundland and Labrador and other Canadian suppliers and contractors to participate in the bid process;
- publishing of proponent and contractor quarterly procurement forecasts, EOIs, bid lists and awards for all contracts and purchase orders greater than \$250,000 for the development phase of a project. It is expected that procurement information will be posted via media such as local newspapers, general procurement websites (e.g. noia.ca, bids.ca) and proponent/contractor websites, and will be updated on a regular basis;
- publishing of proponent and contractor semi-annual procurement forecasts, EOIs, and awards for all contracts and purchase orders greater than \$250,000 for the operations

phase of a project. It is expected that procurement information will be posted via media such as local newspapers, general procurement websites (e.g. noia.ca, bids.ca) and proponent/contractor websites, and will be updated on a regular basis;

- communication of its bid procedures to Newfoundland and Labrador and other Canadian suppliers and manufacturers on a timely basis; the Board's expectation is that proponent and contractor bid procedures are consistent with CAPP's Industry Recommended Practice document *Atlantic Canada Offshore Petroleum Industry – Supply Chain Management*;
- location of procurement offices, and the names of key procurement personnel in Newfoundland and Labrador and other parts of Canada; the Board's expectation is that key proponent and contractor procurement personnel will be located in the province. This would be consistent with the principles of full and fair opportunity and first consideration;
- requests for Canada and Newfoundland and Labrador benefits information (i.e. benefits questionnaires) as a part of the bid solicitation process, along with a description as to how such information will be weighted in the bid selection process;
- initiatives to ensure that contractors and subcontractors comply with the provisions of the approved Benefits Plan, as well as a definitive statement in the plan to that effect;
- provision of debriefings to unsuccessful bidders when so requested, consistent with CAPP's Industry Recommended Practice document entitled *Atlantic Canada Offshore Petroleum Industry – Supply Chain Management*; and
- initiatives to enable designated groups or companies owned or operated by them to participate in the supply of goods and services used in the proposed work (see also section 2.6); and
- strategies to encourage international contractors to partner with Newfoundland and Labrador, and other Canadian firms, by means of joint ventures and other business models. The establishment of such relationships is encouraged by the Board, as they are a means to bring expertise and the potential for technology transfer to local and Canadian firms.

### 3.5.1 Global Frame Agreements

Other aspects of procurement and contracting that may require guidance by the Board include global frame agreements, global supply agreements and other international, company-wide contracting agreements of a similar nature.

Global frame agreements that are multi-project arrangements between a proponent and contractor are not necessarily applicable in the context of a specific project or activity in the Canada-Newfoundland and Labrador Offshore area. The use of such agreements may not

be in compliance with the *Accord Acts* if full and fair opportunity is not provided to companies in the Province or Canada, or first consideration is not provided for the supply of goods and services from within the Province on a competitive basis.

Therefore, local and Canadian markets must be assessed, and full and fair opportunity and first consideration must be provided to Canadian and local suppliers and contractors, respectively, before procurement of goods and services using such global frame agreements are contemplated. Proponents are encouraged to consult with the Board in these matters.

### 3.6 Employment and Training

The employment of Canadians, and in particular members of the labour force of the Province, is an essential feature of governments' policy as enshrined in the *Accord Acts*, concerning offshore resource development. In recognition of the importance of this matter, the proponent should provide an employment strategy, and in particular is expected to address the following in its Benefits Plan:

- a commitment to the employment of Canadians, with first consideration to residents of Newfoundland and Labrador;
- project organization and staffing plans for the construction and operations phases. In particular, at the beginning of the construction phase, employment plans for the proponent and each major contractor are required, identifying key positions to be filled by proponent/contractor personnel, and other positions to be filled by qualified Newfoundland and Labrador and other Canadian residents, subject to availability at the time of hire. Such plans should also include strategies, where applicable, for succession of qualified residents of the Province, and other Canadians, to any positions held initially by non-Canadians;
- similarly, an operations phase Human Resources Plan for the proponent and its major contractors is required for approval by the Board 12 months prior to first oil. Such plans should also include strategies for succession of qualified residents of the Province, and other Canadians, to any positions held initially by non-Canadians;
- identification of specific education and training programs to be provided in the Province for Newfoundland and Labrador residents and other Canadians to participate in the project, in particular due to anticipated shortages in labour supply during the construction phase;
- establishment of specific measures and initiatives to increase employment opportunities for designated groups including: women, aboriginal groups, persons with disabilities and members of visible minorities (also see section 2.4); and

- assistance to government departments and agencies and to private and public training institutions in identifying and developing suitable employment-related training programs.

### 3.6.1 Crewing

Guidance with respect to crewing of foreign marine installations and structures, supply vessels and support craft, and transboundary drilling programs can be found in Appendix 3.

## 4.0 CAPACITY ASSESSMENT

The Benefits Plan should provide an analysis of the potential for Canadian companies and, in particular, Newfoundland and Labrador companies to participate in the engineering, supply, fabrication, construction, operation and support activities of the project. A similar analysis of the labour force should be provided to meet the employment needs of the project.

### 4.1 Construction

The project construction phase offers significant procurement and employment opportunities for businesses and persons in the Province. This section offers guidance for the preparation of a Benefits Plan to facilitate the attainment of these opportunities.

The demand for goods and services should be estimated, by major component and probable sources for each of the following procurement categories:

- major contracts for fabrication, construction and installation of the facilities;
- materials required in bulk such as steel plate, pipe, tubular goods etc.;
- major equipment such as pumps, compressors, generators, wellheads, pressure vessels etc.; and
- major services such as engineering and project management, transportation, warehousing, drilling, and other support services.

For each of the major components identified, the proponent is expected to provide a thorough assessment of the ability of the Canadian and, in particular, the Newfoundland and Labrador economies to participate in the project and to identify constraints to their participation. The proponent should also provide a description of those aspects of its contracting strategy designed to facilitate such participation.

The annual demand for labour, in person-hours and persons, for each major component of the preferred production system, should be projected by skill classification in accordance with

Canada's National Occupation Codes (NOC). These demand estimates should be identified in terms of Newfoundland and Labrador based and other Canadian based requirements.

The proponent is expected to:

- provide an assessment of the availability of Canadian and Newfoundland and Labrador labour to meet this demand and how they might be increased or enhanced;
- identify any special training requirements which might be needed to facilitate participation by the Canadian and Newfoundland and Labrador labour force;
- assess the impact of project demands on the educational infrastructure in the Province; and
- assess the impact of other major projects in the region which may draw on the same pool of workers as the project being considered.

## 4.2 Production Operations

The annual demand for goods and services required to support production operations should be estimated for each major category and probable sources.

For each of the major categories identified, the proponent is expected to provide a thorough assessment of the ability of Canadian and, in particular, Newfoundland and Labrador industry to participate, and to identify any constraints to its participation. The proponent should also provide a description of the aspects of its contracting strategy designed to facilitate such participation.

The annual operating labour requirements, in persons, should be projected by skill classification in accordance with the NOC.

The proponent is expected to provide an assessment of the availability of Canadian and Newfoundland and Labrador labour to meet this demand and to identify any special training requirements which might be needed to maximize the Canadian and Newfoundland and Labrador labour force participation.

## 5.0 CONSULTATION, MONITORING AND REPORTING

This section outlines the general requirements for consultation with the Board during the preparation of the Benefits Plan and for monitoring and reporting during the life of a project.

### 5.1 Consultation

The proponent should initiate and maintain timely consultation with the Board during the preparation of the Benefits Plan. The Board will consult with the appropriate government

departments in its review of the Benefits Plan. This consultation is not intended to limit in any way direct contact between the proponent and governments.

## **5.2 Exploration and Pre-Development Monitoring**

The scope of an Exploration Benefits Plan, including statutory requirements and policies and procedures, covers not only exploration activity in conjunction with a particular program (see Appendix 1), but post-exploration activity as well. This includes any pre-development contracting conducted prior to the approval of a Benefits Plan for a field development. Examples of such contracting include drilling and associated services in support of delineation drilling, engineering feasibility studies, consulting services, contracting in support of preparing a development application etc. The Board will monitor such contracting consistent with the approved Exploration Benefits Plan.

## **5.3 Monitoring of Long Lead Contracting**

A proponent's activity with respect to any long lead procurement or contracting for any exploration or development activity, prior to the approval of a Benefits Plan, will be at the proponent's own risk, if it does not conform to the Benefits Plan which may be subsequently approved. However, this risk may be mitigated to the extent such activity is conducted in accordance with these guidelines, and to the extent there have been diligent consultations with the Board.

The Board may monitor long lead contracting for any exploration or development activity which occurs prior to Benefits Plan approval; monitoring shall be in accordance with the monitoring framework described in Appendix 4. In monitoring this process, the Board is in no way prejudicing any decisions it may take in approving the Benefits Plan (or the Development Plan if applicable).

## **5.4 Project Monitoring and Reporting**

Effective monitoring and reporting of procurement decisions, employment levels and expenditures are necessary to ensure that the principles of the Benefits Plan are being followed and its commitments are being met.

The proponent is expected to describe its plans for monitoring and reporting on the efforts of both itself and its contractors in achieving benefits to Canada in general, and to Newfoundland and Labrador in particular.

It is the Board's intention to monitor (i.e., designate) certain contracts for detailed review, to ensure the legislative benefits principles of full and fair opportunity and first consideration are followed by proponents and its contractors. Also, all procurement and contracting decisions

which have significant national or provincial benefits implications will be subject to a detailed review by the Board.

Suggested formats for the Board's monitoring and reporting requirements for development and operations phase procurement are described in Appendix 4 of this document.

The proponent shall submit Canada-Newfoundland and Labrador Benefits Reports on a quarterly and annual (calendar) basis, in a format satisfactory to the Board. Such reports shall be shared with the public.

## 5.5 Development Phase Benefits Reports

Development phase **quarterly** benefits reports are due within one month of the end of each quarter. Fourth quarter reports may be submitted as part of an annual benefits report, but fourth quarter information must be reported separately from annual information. Quarterly reports should contain the following information:

- a synopsis of activity during the quarter, including project progress, milestones, and benefits achievements;
- project expenditures classified by component including associated local, other Canadian and foreign expenditure content;
- persons employed for the project as of the end of the quarter, classified by project component, geographical location, residency status and gender;
- project person hour summary, classified by component, hours and hours in the province;
- persons employed for the project as of the end of the quarter, classified by major disciplines (NOC Codes) and gender;
- procurement summary for all contracting and procurement greater than \$250,000;
- R&D and E&T expenditure summary; and
- diversity update.

Development phase **annual** benefits reports are due within one month of the end of each calendar year, and in addition to the information contained in quarterly reports, should contain the following additional information:

- initiatives with respect to supplier development and technology transfer;
- a summary of examples where the proponent and/or contractors provided first consideration to goods and services in the province;

- annual R&D and E&T report;
- annual diversity report addressing Diversity Plan commitments and initiatives, including an analysis of the employment of designated groups versus availability in the workforce; and
- a forecast of project expenditures for upcoming year.

## 5.6 Operations Phase Benefits Reports

Operations phase **quarterly** reports are due within one month of the end of each quarter. Fourth quarter reports may be submitted as part of an annual benefits report, but fourth quarter information must be reported separately from annual information. Quarterly reports should contain the following information:

- a synopsis of activity during the quarter, including project progress, milestones, and benefits achievements;
- project expenditures classified by component including associated local, other Canadian and foreign expenditure content;
- persons employed for the project as of the end of the quarter, classified by proponent and contractors, geographical location, residency status and gender; and
- procurement summary for all contracting and procurement greater than \$250,000, and a vendor analysis for purchase orders, by geographical location.

Operations phase **annual** benefits reports are due within one month of the end of each calendar year, and in addition to the information contained in quarterly reports, should contain the following additional information:

- human resources and succession planning update;
- initiatives with respect to supplier development and technology transfer;
- a summary of examples where the proponent and/or contractors provided first consideration to goods and services in the province;
- annual R&D and E&T report;
- annual diversity report addressing Diversity Plan commitments and initiatives, including an analysis of the employment of designated groups versus availability in the workforce;
- community investment update; and
- a forecast of project expenditures for upcoming year.

## 5.7 Benefits Audits and Complaint Investigations

Proponents and their contractors may be subject to periodic industrial benefits audits to verify benefits commitments are being met and accurately reported to the Board. In addition, the Board may investigate benefits complaints with respect to contracting and employment issues. Accordingly, proponents and their contractors will be required to provide any information to the Board (financial or otherwise) necessary to satisfy audit or investigation requirements.

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# APPENDIX 1

## CANADA-NEWFOUNDLAND AND LABRADOR EXPLORATION BENEFITS PLAN

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## 1.0 Introduction

Section 45 of the *Accord Acts* requires that a “Canada-Newfoundland and Labrador Benefits Plan” must be submitted and approved before any petroleum work or activity can take place in the Canada-Newfoundland and Labrador Offshore Area.

This guidance is presented to assist proponents who are planning to conduct Exploration activity in the Canada-Newfoundland and Labrador Offshore Area with the preparation of an Exploration Benefits Plan.

An Exploration Benefits Plan should provide an overview of the proposed activity. The plan should also describe a proponent’s plans and commitments related to statutory requirements and associated policies and procedures, as well as the consultative, monitoring and reporting procedures the proponent intends to establish to achieve these objectives.

A proponent that plans offshore exploration activity in the Labrador offshore area is further directed to review the Labrador Inuit Association (LIA) Land Claims Agreement, and undertake consultations if required, for provisions affecting any planned activity.

## 2.0 Description of Work Activity

The level of employment and the amount of work activity that will take place in the Province are major considerations in the Board’s review and approval of Exploration Benefits Plans. Therefore, the proponent should provide a description of the proposed activity, including an estimate or overview of the work expected to take place in the province and other parts of Canada. Proponents should also provide an estimate of project expenditures, as well as a summary of project employment categorized by Newfoundland and Labrador, other Canadian and foreign residents.

## 3.0 Statutory Requirements

An Exploration Benefits Plan should describe the proponent’s commitment to, and plans for complying with the statutory requirements established in section 45 of the *Accord Acts*.

For more detail with respect to statutory requirements, see Section 2.0 of the Benefits Plan Guidelines.

### 3.1 Office in the Province

The legislation requires that a proponent establish in the Province an office where appropriate levels of decision-making are to take place. The Board would not consider any application for exploration drilling or other exploration activity from a proponent who does not have an office with appropriate levels of decision-making authority located in the Province. However, it is also recognized that the size of the local office will depend upon the level, duration and magnitude of activity taking place in the Province.

At a minimum, the local office should be sufficiently staffed by personnel who would be accountable for and responsive to any incidents that arise during the course of the exploration activity, and able to make decisions on behalf of the proponent in ensuring regulatory compliance or responding to any regulatory issues.

## 4.0 Policies and Procedures

The proponent's commitment to the statutory requirements as described above should be reflected in its proposed policies and procedures for planning and executing the project. The acceptability of the proponent's policies and procedures will be determined by its commitment to the categories discussed in this section. Proponents are expected to address each of these categories in its Exploration Benefits Plan.

### 4.1 Procurement and Contracting

The proponent is expected to describe its contracting strategy for goods and services in its Exploration Benefits Plan. In particular, a list of all major contracts greater than \$100,000 should be identified, as well as strategies for subcontracting and the packaging of contracts. The proponent is also expected to describe:

- its commitment to communicate contracting information on a timely basis to ensure that full and fair opportunity is provided to qualified Newfoundland and Labrador and other Canadian suppliers and contractors to participate in the bid processes;
- its commitment to publish proponent and contractor EOIs for the contracts (and purchase orders of a significant dollar value) that are expected to be procured locally. It is the Board's expectation that information on procurement opportunities will be posted via media such as local newspapers, general procurement websites (e.g. noia.ca, bids.ca) and proponent/contractor websites, and these will be updated on a regular basis;

- the location of the proponent's procurement offices, and the names of key procurement personnel in Newfoundland and Labrador and other parts of Canada. Depending on the magnitude and duration of the project, the Board's expectation is that key proponent and contractor procurement personnel will be located in the province. This would be consistent with the principles of full and fair opportunity and first consideration;
- its process for requesting Canada and Newfoundland and Labrador benefits information as a part of the bid solicitation process, along with a description as to how such information will be used in the bid selection process;
- initiatives to ensure that contractors and subcontractors comply with the provisions of an approved Exploration Benefits Plan, as well as a definitive statement in the Plan to that effect; and
- the provision of debriefings to unsuccessful bidders when so requested, consistent with CAPP's Industry Recommended Practice document entitled *Atlantic Canada Offshore Petroleum Industry – Supply Chain Management*.

It is the Board's intention to monitor (designate) certain contracts for detailed review, to ensure the legislative benefits principles of full and fair opportunity and first consideration are followed by proponents and contractors.

## 4.2 Employment and Training

The employment of Canadians, and in particular members of the labour force of the Province, is an essential feature of governments' policy concerning offshore resource development. In recognition of the importance of this matter, the proponent should provide an employment strategy for the exploration program in question, and in particular is expected to address the following in its Exploration Benefits Plan:

- a commitment to the employment of Canadians, with first consideration to residents of Newfoundland and Labrador;
- project organization and staffing plans for the exploration program. In particular, the proponent is expected to provide employment plans for each major contractor, identifying key positions to be filled by contractor personnel, and other positions to be filled by qualified Newfoundland and Labrador and other Canadian residents, subject to availability at the time of hire;

- such plans, if applicable, should also include strategies for succession of qualified residents of the Province, and other Canadians, to any positions held initially by non-Canadians; and
- identification of specific education and training programs to be provided in the Province for Newfoundland and Labrador residents and other Canadians to participate in the project.

More specific guidance with respect to marine crewing can be found in Appendix 3.

## **5.0 Consultation**

The proponent should initiate and maintain timely consultation with the Board during the preparation of the Exploration Benefits Plan. The Board will consult with the appropriate government departments in its review of the plan. This consultation is not intended to limit in any way direct contact between the proponent and governments.

## **6.0 Monitoring of Long Lead Contracting**

A proponent's activity with respect to any long lead procurement or contracting for any exploration activity, prior to the approval of an Exploration Benefits Plan will be at the proponent's own risk, if it does not conform to the Exploration Benefits Plan which may be subsequently approved. However, this risk may be mitigated to the extent such activity is conducted in accordance with this guidance, and to the extent there have been diligent consultations with the Board.

The Board may monitor long lead contracting for any exploration activity which occurs prior to an Exploration Benefits Plan approval; monitoring shall be in accordance with the monitoring framework described in Appendix 4. In monitoring this process, the Board is in no way prejudicing any decisions it may take in approving the Exploration Benefits Plan.

## **7.0 Exploration and Pre-Development Monitoring**

The scope of an Exploration Benefits Plan, including statutory requirements and policies and procedures, covers not only exploration activity in conjunction with a particular program, but post-exploration activity as well. This includes any pre-development contracting conducted prior to the approval of a Benefits Plan for a field development. Examples of such contracting include drilling and associated services in support of delineation drilling, engineering feasibility studies, consulting services, contracting in support of preparing a development application etc.

The Board will monitor such contracting consistent with the approved Exploration Benefits Plan.

## **8.0 Annual Report**

The proponent shall submit an annual Canada-Newfoundland and Labrador Benefits Report, in a format satisfactory to the Board. Annual reports are due within one month of the end of the calendar year, and should contain the following information:

- a synopsis of activity during the year, including project progress, milestones, and benefits achievements;
- a description of any specific initiatives, such as supplier development, technology transfer, training programs, succession of Newfoundland and Labrador residents and other Canadian residents into senior positions etc.;
- a summary of project expenditures; and
- a summary of persons employed for the project, classified by residency status.

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# APPENDIX 2

## RESEARCH AND DEVELOPMENT AND EDUCATION AND TRAINING EXPENDITURES

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## 1.0 The Legislation

The legislative requirement for expenditures related to research and development and education and training (hereinafter referred to as 'R&D') in the Province is contained in Section 45 of the *Accord Acts*, and reads as follows:

*45(3)(c) ... expenditures shall be made for research and development to be carried out in the Province and for education and training to be provided in the Province;*

Section 151.1(1) of the *Accord Acts* authorizes the C-NLOPB (the Board) to issue and publish in such manner as it deems appropriate guidelines and interpretation notes with respect to the application and administration of Section 45<sup>4</sup>.

This document is intended to provide proponents engaged in petroleum exploration, development and production activities in the Canada-Newfoundland and Labrador Offshore Area with guidance parameters and criteria for R&D expenditures in the Province, which are required under Section 45 of the legislation. Throughout this guidance the term "Research & Development" (R&D) includes "Education & Training".

R&D represents one avenue whereby the exploration for, and the development and production of the petroleum resources in the Canada-Newfoundland and Labrador Offshore Area can make a contribution to the sustainable development of the Province. This was the vision or intent of the legislators at the time when they inserted the requirement for research and development and education and training "in the Province" into the *Accord Acts*. The petroleum resource is finite and exhaustible, and it is the intent of this provision of the legislation that its exploitation create a lasting economic legacy for the people of the Province. Achievement of this legislative intent is a key reason why some parameters or guidance are required in respect of the requirement in the *Accord Acts* that there be expenditures in the Province for R&D. This guidance establishes such parameters.

The level of R&D expenditure by proponents is expected to be consistent with the norms for such expenditures by the upstream petroleum industry in Canada. While the expenditures must be "in the Province", Canadian tax criteria will be used as a general guide, as well as other criteria, to determine eligible expenditures.

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<sup>4</sup> Also see *Hibernia Management & Development Co. v. Canada-Newfoundland Offshore Petroleum Board*, 2008 Carswell Nfld 225, 2008 NLCA 46.

R&D expenditures are viewed by the Board to be strategically important contributions to growth and sustainable development associated with the offshore petroleum sector in the Province.

## 2.0 R&D Expenditure Requirements

R&D expenditures can be eligible in either the exploration, development or production phases of a project.

### 2.1 Exploration Phase

R&D expenditures during the exploration phase by a proponent that meet the eligibility criteria of the guidelines may be credited towards a development project in which there is participation by the proponent.

### 2.2 Development Phase

Experience to date has been that R&D expenditures during the development phase of a project have amounted to approximately 0.5 percent of the development phase capital cost. Development Phase Capital Cost is defined as the time period from submission of a proponent's Development Plan Application (DPA) to first oil. The C-NLOPB accepts this as a reasonable R&D expenditure level for the development phase of a project.

### 2.3 Production Phase

In the absence of experience on which to base a benchmark for such expenditures, the Board examined the levels these expenditures by upstream petroleum companies in Canada. These data can be found in Statistics Canada, Industrial Research and Development: Intentions Reports, typically in the table titled "*Current intramural research and development expenditures as a percentage of performing company revenues*" under the category Mining and Oil and Gas Extraction, Total Country of Control.

Establishing a benchmark based on industry practice in Canada is viewed to be a reasonable approach and the Board will apply the most recent five-year data reported by Statistics Canada. R&D expenditures for a project will be determined by the Statistics Canada benchmark, annual production, monthly Brent Crude oil price, discount/premium, and exchange rate.

- The Benchmark is based on the most recent five-year rolling average of the benchmarks reported by Statistics Canada in respect of R&D expenditures by oil and gas extracting companies, expressed as a percentage of gross revenue (<http://www.statcan.gc.ca/bsolc/olc-cel/olc-cel?catno=88-202-X&CHROPG=1&lang=eng>);
- Production (barrels) is based on the Board’s production accounting system (<http://www.cnlopb.ca/information/statistics.php#rm>);
- Oil Prices are based on Brent crude spot prices published by the U.S. Energy Information Administration (<http://tonto.eia.doe.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=rbrte&f=M>);
- Discount or Premium rates will be calculated based on oil quality in relation to the quality of Brent crude as reflected in the prices ; and
- The Exchange Rate is from the Bank of Canada monthly averages ([http://www.bankofcanada.ca/en/rates/exchange\\_avg\\_pdf.html](http://www.bankofcanada.ca/en/rates/exchange_avg_pdf.html)).

A similar calculation will apply to the production of Natural Gas Liquids and Natural Gas.

The production phase R&D expenditure requirement will be calculated for each project on an annual basis (and monthly if required) for the period covered by each Operations Authorization (OA) issued by the Board. As well, expenditures during the development phase may be credited towards the production phase. This is known as the “development phase credit” and may be deducted from the proponent’s production phase obligations on the basis of the lesser of project field life or the duration of three OA periods.

## 3.0 Eligible Expenditures

### 3.1 Research and Development

The Board has adopted a definition of research and development that is reasonable and consistent with that contemplated by the legislation. The definition suggested below is not considered exhaustive, and the Board will consider other reasonable areas of expenditure proposed by a proponent as appropriate, on a case-by-case basis.

In order to be eligible, any research and development expenditures must occur in the Province of Newfoundland and Labrador. In addition, expenditures must be made by

proponents, interest owners, and/or their contractors. Projects considered for eligibility can include elements such as infrastructure, materials and equipment, and overheads (i.e. salaries and wages, heat and light, office supplies, etc).

To aid in determining eligible expenditures, the Board uses as a guide the definition of Scientific Research and Experimental Development (SR&ED) under Section 248(1) of the *Income Tax Act*. SR&ED references *the systematic investigation or search that is carried out in a field of science or technology by means of experiment or analysis and that is basic research, applied research, or experimental development*.

Essentially, research and development activities that are focused on resolving a technological uncertainty or making a technological advancement are consistent with the definition of SR&ED. Routine engineering for example, regardless of its complexity, is generally ineligible. However, expenditures that are necessary in support of an eligible project, including project management, overheads or routine engineering, are eligible, provided these activities occur in the province.

While the Board uses the definition of SR&ED in the *Income Tax Act* as a guide to determine the eligibility of a project, the Board's conclusions as to the eligibility of a project on occasion may differ from the conclusions of the Canada Revenue Agency. In such cases, the Board will rely on its in-house expertise to guide its decision making as to eligibility.

In addition to the elements included in the above definition, eligible expenditures may extend beyond science and technology to include research and development in other areas. These may also include expenditures outside the oil and gas sector.

### 3.2 Education and Training

For the purposes of these guidelines the definition of education and training in the Province, as contemplated in Section 45 of the legislation, shall include expenditures for any or all of the following:

- The establishment of education and training programs (these can include elements such as infrastructure, materials and equipment, and overheads (i.e. salaries and wages, heat and light, office supplies, etc));
- Tuition fees at recognized educational institutions;
- Technology transfer;

- Chairs, scholarships, bursaries and fellowships; and
- Work terms/work placements conducted inside or outside the Province, by students enrolled at recognized educational institutions in the Province.

Other areas pertaining to education and training will be considered on a case by case basis. Regulatory training is not an eligible expenditure. Also, wages and salaries of employees engaged in education and training activities are ineligible expenditures.

In addition to the elements included in the above definition, eligible expenditures may extend beyond the oil and gas sector.

#### **4.0 Pre-Approval of Expenditures**

A proponent may wish to file an *R&D Work Expenditure Application Form* (see attached form) for each project it plans to undertake in order to confirm eligibility. The form should be submitted to and reviewed by the Board for approval, prior to commencement of the project. While the Board does not require a calculation of local content for the project in question, the level of content will be a consideration by Board staff. The Board also encourages applicants to collaborate with existing local expertise prior to the submission of proposals, in order to optimize local participation in such projects.

The Board will undertake to review an application in a timely and efficient manner upon receipt. The proponent will be notified in writing of the results of this review. While eligibility of a project may be obtained through the work expenditure pre-approval process, approval of actual expenditures occurs following the submission and review of a proponent's annual R&D Report by the Board.

#### **5.0 Reconciliation of Required and Eligible Expenditures**

A proponent is required to submit an annual R&D report by January 31st of each calendar year describing its R&D expenditures in the previous year. The Board will review this report to determine eligible expenditures. The Board may also periodically conduct assurance reviews of selected expenditures in annual reports to verify that expenditures are in accordance with the Board's guidelines.

For each development project, the Board will review expenditure requirements and eligible expenditures as follows:

- At the end of the development phase period, as defined by first oil; and
- At the end of each OA period, during production

At the end of each authorization period (typically three years) a reconciliation of expenditures vs. obligations will be conducted. The cut-off date for this process will be six months prior to the expiry date of the authorization.

Carryover of surplus eligible expenditures to the next OA period is permitted. For any shortfall, the Board has determined that a Letter of Credit must be provided as security that the proponent will fulfill its obligations. The proponent will be given until six months prior to the expiration of its next authorization to spend its shortfall. Otherwise, the Board may draw upon the financial instrument and distribute the funds to recognized research or educational institutions in the Province, to be used in a manner consistent with the eligibility criteria in these guidelines and subject to oversight by the Board.

The value of the financial instrument provided for any shortfall may be decreased on an annual basis as eligible expenditures are made. The financial instrument will be returned to the proponent once the expenditure shortfall has been eliminated.

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## R&D Work Expenditure Application Form

Project: \_\_\_\_\_

Phase:      Exploration       Development       Production

Activity: \_\_\_\_\_

Research and Development                       Education and Training

Expenditure Amount                      \$ \_\_\_\_\_

Source of Funding                      Operator  Contractor  Subcontractor

Location of Activity \_\_\_\_\_

Expenditure Recipient \_\_\_\_\_

\_\_\_\_\_  
Description of R&D Activity

\_\_\_\_\_  
Description of E&T Activity

E&T Programs	<input type="checkbox"/>	Scholarships	<input type="checkbox"/>
E&T Infrastructure	<input type="checkbox"/>	Work Terms/Work Placements for Students	<input type="checkbox"/>
Chairs and Fellowships	<input type="checkbox"/>	Technology Transfer	<input type="checkbox"/>

Other \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# APPENDIX 3

## CREWING

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## 1.0 Crewing of Foreign Marine Installations or Structures

For the purposes of the *Accord Acts* Occupational Health and Safety provisions, section 205.001 defines the types of installations and structures which fall within the definition of a “marine installation or structure”.<sup>1</sup> When a proponent imports a marine installation or structure (hereinafter referred to as an “installation”) on a short-term basis, this Crewing guidance shall apply. Employment plans for crewing of temporary installations are important considerations in the approval of a Canada-Newfoundland and Labrador Benefits Plan or an Exploration Benefits Plan.

For each particular installation, the Board expects the process below to be followed:

1. Crewing plans should be submitted to the Board for review as soon as possible, but no later than 60 days before the beginning of a particular program.
2. It is expected that the proponent will take a proactive role in optimizing local/Canadian employment in its discussions with contractors, consistent with commitments in its Benefits Plan, prior to submission of a crewing plan to the Board.
3. The contractor shall identify “core positions” required for the safe operation of the installation, and which in the contractor’s view must be filled by existing employees. For each of these positions, a rationale may be required by the Board to explain why qualified Newfoundland and Labrador and other Canadian residents cannot fill these positions. The contractor must also identify the remaining positions that will be filled by Newfoundland and Labrador and other Canadian residents, if qualified and available.
4. The contractor shall also identify any positions for the program in question in which short term training will enable additional employment opportunities for Newfoundland and Labrador and other Canadian residents. This initiative may also be of particular benefit in the case of multi-year programs whereby training initiatives could occur prior to the return of a foreign installation for the succeeding season.
5. As opportunities for long term employment with programs of this nature are limited (see #7 below), the employment of cadets provides an avenue for eventual long term employment with contractors. Accordingly, the Board expects that contractors will undertake best efforts to employ two cadets (i.e. one marine, one technical etc.) per rotation, with first consideration for employment for Newfoundland and Labrador residents.

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<sup>1</sup> The *Accord Acts* define a marine installation or structure to include any ship used for construction, production, diving, geotechnical, seismic work; any offshore drilling unit; or any production platform, subsea installation, pipeline, pumping station, living accommodation, storage structure or loading or landing platform.

6. The Board will review the crewing plan, consult with the proponent and contractor, and finalize its approval of the crewing plan. However, if qualified Newfoundland and Labrador and other Canadian residents become available for positions other than those agreed to in the finalized crew model during the course of the program, then the contractor should also give due consideration for these persons as well.
7. It is expected that the contractor will diligently pursue an advertising employment campaign to provide employment opportunities for Newfoundland and Labrador and other Canadian residents. At a minimum it is expected that the contractor shall advertise in at least one national job bank website, general employment websites (e.g. careerbeacon.com, workopolis.com, jobsinnl.ca, etc.), and local print media (e.g. The Telegram). The advertisement must be posted for a minimum of four weeks starting from the first day the ad appears and is accessible to the general public.
8. Following the completion of its advertising campaign, a final crew roster shall be presented to the Board for its final review. Proponents should also note the following:
  - a. The Board has completed a review of diving programs utilizing diving installations over a four year period. On average, there were about 100 persons on board (POB) per crewing rotation. Although the Board does not prescribe employment targets, Newfoundland and Labrador and other Canadian residents were employed, on average, in 40% of the positions. These positions include Able Seamen (AB), Motormen, Medics, Cooks, Stewards, Saturation Divers, Assistant Life Support Technicians (ALST), Riggers, Welders, Riggers/Welders, Pilot Technicians, AB/Crane Proponents, Life Support Technicians (LST), Assistant Deck Foremen and Third/Fourth Engineers. At a minimum, these positions should be specifically advertised for employment for Newfoundland and Labrador and other Canadian residents, as well as other positions not determined to be “core positions”.
  - b. The Board has completed a review of marine programs utilizing seismic and electromagnetic survey vessels over a ten year period. On average, there were about 45 persons on board (POB) per crewing rotation. Although the Board does not prescribe employment targets, Newfoundland and Labrador and other Canadian residents were employed, on average, in 30% of the positions. These positions include Second/Third Officers, Able Seamen (AB), Motormen, Medics/Paramedics, Cooks, Stewards/Messmen, Fisheries Liaison Officers, and Marine Mammal Observers. At a minimum, these positions should be specifically advertised for employment for Newfoundland and Labrador and other Canadian residents, as well as other positions not determined to be “core positions”.

## 2.0 Crewing of Supply Vessels and Support Craft

Employment on vessels which provide supply and support services (e.g., anchor handling tug, supply vessels, and other vessels of a similar nature) falls within a proponent's Benefits Plan obligations under section 45 of the *Accord Acts*. The Board has adopted the following practice with regard to crewing of such supply and support vessels, (hereinafter referred to collectively as 'supply vessels') that are sourced from outside the Province.

For supply vessels that are sourced from other Canadian provinces:

1. For programs planned for a period of less than **30 days**, a change out of existing crew is not required.
2. For programs planned for a period of **30 to 90 days**, a balanced crew of Newfoundland and Labrador and other Canadian residents for all positions, subject to qualifications and availability, is required.
3. For programs planned for a period of **more than 90 days**, first consideration is required to be afforded to Newfoundland and Labrador residents for all positions, subject to qualifications and availability.

The Board has adopted the following practice with regard to crewing of supply vessels that are sourced from outside Canada:

1. For programs planned for a period of less than **30 days**, a plan for the employment of Newfoundland and Labrador and other Canadian residents is not required.
2. For programs planned for **more than 30 days**, first consideration is required to be afforded to Newfoundland and Labrador residents for all positions, subject to qualifications and availability, with full and fair opportunity for the employment of other Canadians for all positions, subject to qualifications and availability.

## 3.0 Transboundary Crewing for Drilling Programs

In the event that an offshore drilling program is planned by a proponent to take place in both the Newfoundland and Labrador and Nova Scotia offshore areas, a proponent will require approval of a Benefits Plan in both offshore areas. The Board recognizes that there is a need for a reasonable policy to provide for the efficient and effective operation of these transboundary installations (e.g. drilling rigs, drillships etc.) and support vessels such that the benefits legislation is respected without compromising the safety of offshore workers.

In recognition of the need to move toward a longer-term crewing approach/policy specifically for drilling rigs and support vessels which are planning to work in the Newfoundland and Labrador and Nova Scotia offshore areas, the following policy applies:

1. Proponents and/or contractors that operate drilling rigs and support vessels shall respect the spirit and intent of the *Accord Acts* over the planned period by crewing such vessels with a proportionate mix of residents from the provinces based on the expected time spent working in the respective offshore areas.
2. This action shall be taken only to the degree that it is achievable without compromising safety, recognizing the need for competent and qualified crews for the safe operation of these vessels.
3. Any distribution of transboundary crewing by residency shall respect an equitable occupational split.
4. Proponents must continue to manage their operations from the offshore area for which an authorization was issued.

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# APPENDIX 4

## MONITORING AND REPORTING

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## 1.0 Introduction

This guidance is intended to provide a framework for the Canada-Newfoundland and Labrador Offshore Petroleum Board's review of designated contracts, subcontracts and purchase orders associated with development and operations phase procurement for a project in the Canada-Newfoundland and Labrador Offshore Area, including contracting and procurement by all contractors and subcontractors. The framework comprises three main elements:

- procurement forecasts;
- review procedures; and
- quarterly procurement reports.

It is the Board's expectation that the number of contracts, subcontracts and purchase orders designated for review by the Board will not exceed 20% of all contracts, subcontracts and purchase orders greater than \$250,000.

Any contracts, subcontracts or purchase orders less than \$250,000 which in the Board's opinion may be sensitive, will also be subject to this guidance.

## 2.0 Procurement Forecasts

For development phase contracting, the Board requires, 30 days prior to the first day of each quarter, a listing of all contracts, subcontracts and purchase orders, greater than \$250,000, which will commence the contracting process in the upcoming quarter. For the operations phase, forecasts are required on a semi-annual basis, and are required 30 days prior to the beginning of each period.

Table 1 provides a suggested format for procurement forecasts. The Board will advise the Proponent, by the first day of each quarter (or semi-annual period), which contracts, subcontracts and purchase orders have been designated by the Board for review.

Quarterly/Semi-Annual Procurement Forecast (For all Contracts/PO's ≥ \$250,000)				
Ref. #	Item/Service Description	Estimated Value	EOI Issue Date	Award Date

Table 1

The Board shall be informed of any additions and changes to the forecast and shall advise the Proponent of its contract review requirements accordingly.

### 3.0 Review Procedures

This section outlines the procedures for reviewing those contracts, subcontracts and purchase orders designated by the Board for further review.

Table 2 provides a suggested format for a procurement evaluation form which may be used for the prequalification, bid and award stages for all designated contracts, subcontracts and purchase orders. All relevant information requested in the form should be provided by the Proponent or contractor to ensure an efficient review process.

In particular, the calculation of Canadian and Newfoundland and Labrador content associated with each bidder should be calculated in accordance with the Canadian General Standards Board definition of Canadian Content (see section 5.0).

The Remarks section of the form can be used to explain why a particular company was not included on a prequalification or bid list; information with respect to the award rationale, including commercial, technical, HSE and benefits aspects of the bid evaluation should also be included here.

**Contractor Assessment Profile**

Ref No: _____		Pre-qualification Closure Date: _____										Remarks <sup>3</sup>
Contract Name: _____		RFP Issuance Date: _____										
Description of Scope work: _____		Bid Closure Date: _____										
Estimated Value: _____		Contract Award Date: _____										
		Contract Duration, Options: _____										
Company Name	Company Location				Price Differential (%)	Content (%)			Project Hours			
		Prequalification <sup>1</sup>	Bid <sup>2</sup>	Award		NL	OC	FOR	NL	OC	FOR	
A	CAD	X	X		XX%							
B	UK	X	X		XX%							
C	US	X	X	X	Base	XX%	YY%	ZZ%				
D	CAD	X										
E	CAD	X	X		XX%							

1. Pre-qualification stage means list of companies to be issued pre-qualification questionnaire.  
 2. Bid Stage means list of companies to be issued a RFP/ITT.  
 3. Remarks - This section should explain why firms did not prequalify, were not sent a RFP, or were not awarded the work. It should also include technical/commercial/and benefits aspects of valuation if applicable.

**Table 2**

It should be noted that at the prequalification stage, prior to issuing a prequalification questionnaire to prospective bidders, the Board may require a copy of the prequalification questionnaire, if the document differs from the standard prequalification questionnaires previously reviewed by the Board.

Also, prior to issuing a RFP or RFQ during the bid stage, the Board may require a copy of the RFP or ITT. The Board will advise the Proponent of its requirements in this regard on a case by case basis.

The Board will conduct its reviews within the following timeframes:

- Prequalification review – 3 business days
- Bidders list review – 3 business days
- Award review – 2 business days



The Board uses the same definition of Canadian content developed by the Canadian General Standards Board (CGSB), and is based on the principle of value added to an economy. The standard is reproduced for reference on Page 8 of this Appendix.

For the purposes of this guideline, the Board also uses the term other Canadian content which can be expressed as the value added in Canada, excluding Newfoundland and Labrador.

The CGSB definition does not address complex situations; it provides general definitions and broad guidelines only. There are two important principles to be followed in calculating content:

- Information should be derived through Generally Accepted Accounting Principles (GAAP). GAAP describes the basis on which financial statements are normally prepared. Therefore, the information from which benefits achievement is reported to the Board should be derived from accounts and records which are integrated with corporate job cost records and financial statements; and
- Reasonableness and materiality should always be considered. Reasonableness implies the use of common sense. Materiality, in financial management, accounting or auditing sense, implies significance.

Reasonable benefits reporting requires a knowledge of the cost elements included in the total cost incurred and an assessment of the risk of errors of content classification in each of the cost elements. The following are the major elements to be considered in determining content on a cost incurred basis:

- Direct Labour
- Direct Material and Equipment
- Subcontract
- Other Direct Charges
- Overhead
- Profit

There are two aspects to the reporting of benefits achievement on **direct labour**. It is important to distinguish between reporting employment in terms of hours and in terms of costs because the reporting requirement is different.

For the reporting of direct labour (or employment), in terms of costs, the content will be considered an industrial benefits achievement for the area where the work is performed. For example, regardless of employee residency status, the cost of labour performed in the Canada-Newfoundland and Labrador offshore area is Newfoundland and Labrador content.

On the other hand, the reporting of employment in terms of hours (or any other time period) is normally determined on the location of the employee's principal residence at the time of hire. This is also known as reporting employment by residency status.

For purposes of this guideline, Newfoundland and Labrador, Canadian and foreign residents are defined as follows:

- Newfoundland and Labrador resident – a Canadian citizen (or Permanent Resident) who meets the residency requirements of the *Election Act, SNL 1992, CE-3.1* (i.e., location of principal residence in the Province);
- Canadian resident – a person who was born in Canada and who has not relinquished his/her Canadian citizenship; or, a person who has been granted permanent resident (landed immigrant) status in Canada; the Board uses the term other Canadian resident to define a resident of Canada, outside of Newfoundland and Labrador; and
- Foreign resident – all persons who are not Newfoundland and Labrador or Canadian residents.

The benefits reported for **direct material and equipment** should be based on an analysis of the costs in the contractor's books of account.

**Subcontracts** may include significant elements of labour, materials, overhead, profit, equipment and other types of costs. The benefits claimed should be based on an analysis of these charges in the contractor's books of account and from benefits reports from their major subcontractors when the procurement has been, for instance, at a value greater than \$100,000. Because of their materiality, every effort should be made to obtain accurate and current Newfoundland and Labrador and other Canadian content information on these charges. For example, it should be possible to ensure subcontractor labour performed in the Canada-Newfoundland and Labrador offshore area has been classified as Newfoundland and Labrador content.

**Other direct charges** will require an analysis of the contractor's accounts to determine if there are any items of a material nature. An example of other charges might be head office computer services, which relate to equipment, labour and overhead costs that may have been incurred in a foreign location. In this example then, costs would be classified as foreign content.

**Overheads** include all the contractor's indirect expenses, or those expenses not directly chargeable to jobs. Overhead may be grouped into pools for example Production, Engineering, Material Handling and General and Administrative. These costs are usually prorated to jobs on some acceptable basis such as a percentage of direct labour or cost of sales.

The content classification of these types of costs is dependent upon where the costs are actually incurred. For example, if the overhead related to the contracted activity is providing for reimbursement of general and administrative operations which result from offices located in the province, then that overhead cost is Newfoundland and Labrador content.

The industrial benefit claimed for **profit** should be based upon the actual profit recorded on the project in the company's books of account in accordance with GAAP. The assignment or distribution of profit depends upon where the profit is being taxed, which is usually dependent upon the location of ownership.

For normal cost distributions, approximately 20% of the items usually account for 80% of the dollar value. Since both reasonability and materiality are major principles to be followed in the determination of content, efforts to calculate content should concentrate on higher value items. For procurement expenditures greater than \$100,000, the benefits distribution should be estimated by the contractor or supplier at proposal submission and contract award, and adjusted to periodic reported actual content supported by cost analysis (if required).

For lower valued procurement, content can be estimated on some reasonable basis. Accordingly, the Board accepts the following calculation of content for procurement expenditures less than \$100,000 (unless there is a valid reason to adjust to some other basis of distribution):

- Goods and services sourced from firms elsewhere in Canada – 100% other Canadian content;
- Goods and services sourced from firms outside Canada – 100% foreign content;
- Goods and services sourced from firms in Newfoundland and Labrador, but originating elsewhere in Canada – 25% Newfoundland and Labrador content, 75% other Canadian content; and
- Goods and services sourced from firms in Newfoundland and Labrador, but originating outside Canada – 25% Newfoundland and Labrador content, 75% foreign content.

Upon completion of a contract, actual cost and employment content should be reported and certified by a contractor or supplier for all procurement with a value greater than \$100,000.

To ensure that the processes described above for the accurate calculation and reporting of content is passed down the contracting chain to its contractors and subcontractors, these processes should be established in the project benefits management systems and procedures manual.

Some examples of content calculation are provided for reference below.

### **Supply Vessel Charter of a Foreign Owned Vessel**

A foreign owned company provides a fully equipped supply vessel. The Newfoundland and Labrador and/or Canadian content would apply only to any significant overhaul (modification) costs or capital costs incurred in Canada, as well as the vessel operating costs incurred in Canada. Operating costs would include wages, consumables, fuel and other local purchases. The balance of the lease costs would be foreign content.

If a similar vessel was chartered from a company owned by a Newfoundland and Labrador resident, then the profit on the charter would also be included as Newfoundland and Labrador content.

### **Rental Costs – Leased Premises**

If a contractor leased office space in St. John's in a building owned by a corporation which was owned by residents in the province, the rental expense would be 100% Newfoundland and Labrador content.

If the building was owned by an Ontario based corporation, then the Newfoundland and Labrador content would be reduced by a reasonable estimate of the Ontario based overhead and profit percentage included in the rental charges.

### **Catering – Newfoundland and Labrador Corporation**

If a contractor entered into a catering contract with a Newfoundland and Labrador owned corporation, the Newfoundland and Labrador content should be adjusted to reflect a reasonable estimate of the offshore cost of the groceries provided.

### **Foreign Made Equipment – Local Distributor**

If foreign equipment is purchased through a Newfoundland and Labrador owned agency, the percentage of Newfoundland and Labrador content should reflect only the agent's mark-up.

## Canadian General Standards Board

### Standard for Definition of Canadian Content (CAN2-147.3-82)

#### Scope

This standard defines Canadian content and then gives explanations and examples of the terms in the definition. “Canadian content”, frequently an important aspect of the procurement process, is here defined so that it can be considered from a common understanding.

#### Definition

Canadian Content is that portion of the selling price of a product or service associated with the work performed in Canada. Canadian Content may also be calculated as the selling price less the cost of directly and indirectly imported materials, labour, services, overhead and profit not taxable in Canada.

Selling Price is the net selling price to the buyer after all discounts. It includes all applicable federal and provincial sales taxes, excise taxes and tariffs.

Cost of Direct Imports is that portion of the selling price associated with directly imported materials, labour, services and overhead. It includes the tariffs and the cost of transportation to the Canadian place of Importation (place where first landed in Canada).

Cost of Indirect Imports is that portion of the selling price associated with the costs for materials, labour, services and overheads that, while obtained through a Canadian supplier, in fact originated outside Canada.

#### Examples

To aid in the interpretation of several terms, the following examples are provided:

##### ***Cost of Direct Imports***

Directly Imported Material Cost – the cost of an electric motor bought directly from a firm producing it outside Canada. The cost of Import includes all duties paid and the transportation cost to the Canadian place of Importation.

Directly Imported Labour Cost – the labour cost of sewing together, in a factory outside Canada, a glove from leather and other materials supplied from Canada.

Directly Imported Service Cost – the cost of design work performed outside Canada.

Directly Imported Overhead Cost – the royalties or management fees paid outside Canada.

***Cost of Indirect Imports***

Indirectly Imported Material Cost – the cost of an electric motor produced outside of Canada and purchased from a distributor located in Canada for incorporation into a product assembled or manufactured in Canada.

Indirectly Imported Labour Cost – the labour cost, to a company with manufacturing facilities in Canada, of testing product in facilities outside Canada.

Indirectly Imported Service Cost – the computer costs, to a Canadian firm that provides computer services, of using a computer outside Canada in providing those services.

**NOTES**

Examples of the calculation of Canadian content as both a dollar value and a percentage of total net selling price, based on knowledge of either imported costs or domestic costs, are given below:

**Calculation Based on Knowledge of Imported Costs**

A. Total Net Selling Price \$287,000

B. Imported Costs: Costs related to directly and indirectly imported materials, labour, services, overhead and profit not taxable in Canada.

Materials (including Tariffs)

- Direct	\$ 35,000
- Indirect	18,000

Labour

- Direct	20,000
- Indirect	3,000

Services

- Direct	3,000
- Indirect	-----

Transportation (to Place of Importation) 4,000

Overheads 16,000

\$ 99,000	<u>\$ 99,000</u>
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C. Canadian Content (A minus B)	\$188,000
D. Percentage Canada Content (C divided by A) x 100	66%

**Calculation Based on Knowledge of Domestic Costs**

A. Total Net Selling Price	\$287,000
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B. Canadian Content – Cost related to domestic materials, labour services, overheads, taxes and profits.

Domestic Costs

Materials	\$ 60,000	
Labour	40,000	
Services	2,500	
Transportation (within Canada)	5,000	
Overheads (incl. Profit)	42,500	
Federal/Provincial Taxes	<u>38,000</u>	
	\$188,000	\$188,000

C. Percentage Canadian Content (B divided by A) x 100	66%
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# APPENDIX 5

## SOCIO-ECONOMIC IMPACT STATEMENTS

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## 1.0 Legislative Context

The legislative requirement for a Socio-Economic Impact Statement (SEIS) of a proposed offshore petroleum project appears in paragraph 44(2)(c) of the *Canada-Newfoundland Atlantic Accord Implementation Act* (S.C. 1987, c. 3) (<http://laws-lois.justice.gc.ca/eng/acts/C-7.5/page-14.html#h-15>):

*“if the potential development has been proposed to the Board by any person, require that person to submit and make available for public distribution a preliminary development plan, an environmental impact statement, a **socio-economic impact statement**, a preliminary Canada-Newfoundland benefits plan and any other plan specified by the Board” (emphasis added)*

## 2.0 Purpose and Characteristics of SEIA

A Socio-Economic Impact Assessment (SEIA) is a systematic analysis used to identify and evaluate the potential socio-economic changes (impacts) and consequences (effects) resulting from a proposed project on the lives and circumstances of people, their families and their communities.

This SEIA guidance outlines the Board’s expectations for assessing and managing the socio-economic impacts and their effects of offshore petroleum projects. Socio-economic effects may be adverse or beneficial, and in some cases both, potentially affecting stakeholder groups in different ways at different times. The management of those effects includes ways of avoiding adverse effects where possible, mitigating them if not, and creating or enhancing beneficial effects where there are the opportunities to do so.

The product of an SEIA is the SEIS, the purpose of which is to provide the Board with information on a project’s social and economic impacts and effects and thus enable the Board to make informed decisions regarding the proposal. As appropriate, the SEIS will also guide the Board in determining any specific requirements regarding the management of impacts and any follow-up of their effects during the development, operations and decommissioning of the project.

General principles for environmental assessment, have evolved since the early 1970s, and have been documented by the International Association for Impact Assessment, in cooperation with the Institute of Environmental Assessment (1999). These principles apply equally to SEIA. As such the SEIA should be:

- transparent and participative;
- practical, relevant, focused, and credible;
- cost-effective, efficient and purposive; and,
- integrated, interdisciplinary, rigorous, systematic and adaptive.

The SEIA process has evolved over time and continues to do so. Proponents and their consultants are encouraged to find ways to contribute to improving the SEIA process and the associated SEIS document, thereby assisting the Board in making informed decisions that are based on current best practice and as such serve the best interests of the Province and its people.

### 3.0 The Socio-Economic Impact Assessment (SEIA) Process

The general SEIA process is summarized in Figure 1. Though illustrated as a linear process there are implicit feedback loops (e.g. findings from the impact assessment could result in project impact management changes), and some activities are ongoing throughout the process and beyond (e.g. public consultation/engagement is not a one-time activity, but should be ongoing throughout the SEIA process and into the project development, operations and decommissioning phases).

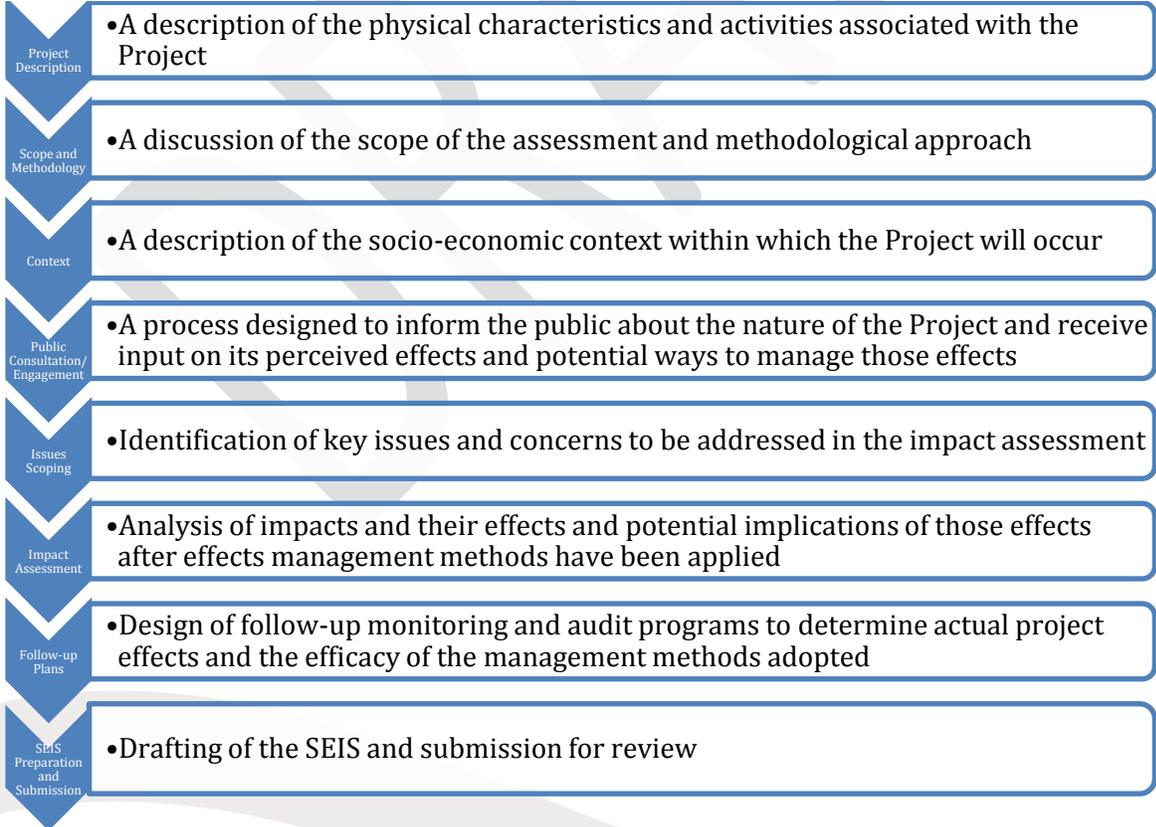


Figure 1 – The Generalized SEIA Process

### 3.1 Project Description

The project description, drawn from the project Development Plan, should include sufficient information on the physical characteristics and activities associated with the construction and operation of the proposed project to provide a context for the SEIA. Greater detail may be required for specific elements of the impact assessment, (see Section 3.6, below). Details should include, but not be limited to the:

- general nature and characteristics of the project facilities, systems and activities proposed;
- potential locations of major project component production, construction and assembly and associated activities during construction, development and operations;
- anticipated time frames for construction, development and project field life;
- number of workers required for construction, development and operations; and,
- any project plans already determined that would influence potential socio-economic impacts and their effects, e.g. use of work camps, marine delivery of project components/equipment/materials, etc.

### 3.2 Assessment Scope and Methodology

This should provide a summary of the scope of the assessment and the approach(es) used in the assessment.

The scope of the analysis should include an indication of and rationale for the:

- temporal scope (i.e. the timeframe covered by the analysis);
- the subject area scope (i.e. what is included in the analysis and why, e.g. demographic impacts, impacts on housing markets, health assessment, cumulative effects analysis, etc.); and,
- the geographic scope (i.e. the spatial focus appropriate to each individual issue/component subject to analysis).

The overall methodological approach should be outlined. Proponents should adopt an approach appropriate to the nature and scale of the project, consistent with local experience of similar projects, and reflective of current thinking in the socio-economic assessment literature. The latter should include considerations of the implications of the project for sustainable socio-economic development in the area(s)/region(s) affected by the project. Where appropriate, additional specific methodological and analytical information should be provided for individual issues/components analyzed.

### 3.3 Socio-Economic Context

A brief description of the receiving environment should be provided to set the socio-economic context within which the project will occur. This should include, but not be limited to:

- An overview of experience with previous projects in the region and a discussion of comparable/differentiating characteristics between the proposed project and others;
- A discussion of current social and economic conditions, anticipated trends and other actions and activities that might affect project outcomes or the socio-economic environment within which the project will occur (e.g. labour supply considerations; infrastructure availability/capacity; other projects).

The content of this section of the document will be influenced by the particular issues/concerns to be addressed in the assessment identified through the public consultation/engagement and issues scoping processes (see 3.4 and 3.5 below). In describing the socio-economic context of the project proponents are encouraged to focus on those characteristics that are directly relevant to the project and its potential impacts and effects. Detailed descriptions of aspects of the receiving environment that have little relevance to the project and its likely impacts and effects should be avoided.

### 3.4 Public Consultation/Engagement

The Proponent should design and implement a public consultation/engagement program *as early as possible* in the project lifecycle to inform interested parties about the proposed project and to receive input from those parties with respect to the project, its potential impacts and effects, and ways in which project effects might be managed. Full and complete records should be maintained for all public engagement activities and sessions undertaken throughout the initial phases of the project and reported on in the SEIS. Outlines of proposed ongoing consultation/ engagement programs for the development and operations phases of the project should also be provided.

The public consultation/engagement process will help to determine many of the key issues to be addressed in the impact assessment and, by association, could potentially influence management approaches designed to address adverse and beneficial effects. The potential importance of these inputs emphasizes the need for early engagement with stakeholders.

Consultation and engagement should not be limited to the issues identification phase of the assessment process, but should continue through the development and into the operations phases as part of an ongoing effects monitoring and management process. Proponents should outline how they will continue to consult/engage with those affected by the project.

### 3.5 Issues Scoping

Based on the outcomes from the public consultation/engagement (see 3.4, above), and previous experience, key issues to be assessed in the impact assessment should be identified. These may include, but not be limited to, issues that:

- are of public concern and which, by implication, may affect those elements of the socio-economic and cultural fabric of the community or region important to the community that defines them;
- may be required by the regulatory authority;
- may be uncertain in terms of their potential outcomes (e.g. because of as yet undefined project characteristics, lack of data, lack of understanding of impact mechanisms); or,
- may be uncertain in terms of the effectiveness of the management methods proposed to address them (e.g. because of lack of previous experience with those methods, lack follow-up data from previous experiences).

Following the identification of the key issues to be addressed and a determination of the assessment methodology to be adopted, proponents are encouraged to meet with the Board to outline the focus of and their approach to the socio-economic assessment.

### 3.6 Impact Assessment

The impact assessment should provide a prediction and evaluation of the impacts and residual effects of the project *after* impact management methods, including 'designed-in' management, are applied.

Distinctions between what might happen in the socio-economic environment with and without the project are important to place project impacts and effects in context. This includes consideration of other events and activities that might reasonably be expected to affect the project or the project environment in the foreseeable future, i.e. particularly during the project development phase.

The proponent should identify which project components or activities will trigger impacts and their subsequent socio-economic and cultural pathways to help illustrate and understand the process by which impacts and effects occur. This can also be useful in determining appropriate management tools.

Effects may be direct, indirect or induced, intended or unintended, beneficial or adverse, and may differ among different groups and at different points during the project. Proponents should distinguish among these varied outcome effects.

Perhaps the most critical aspect of the impact assessment is the evaluation of project effects to determine their implications and whether, after appropriate management measures have been applied, they warrant further attention/concern.

Proponents should offer their interpretation of what the findings from the assessment analysis mean. This may include a discussion of, but need not be limited to:

- the nature of the effect (for example, adverse/beneficial; who is affected and how);
- the magnitude of the effect/degree of change (for example, scale; speed; change relative to regular trends; relative to current capacity or capability to absorb; relative to known thresholds);
- duration and frequency (for example short/long-term, periodic/continuous effects and directional variations e.g. boom/bust);
- geographic effects (for example, local/regional; winners/losers; greater/lesser geographic sensitivities); and
- likelihood (for example, of occurrence; prediction certainty; of management measures being implemented).

In interpreting project effects proponents should develop the discussion to include other factors where relevant, including, but not limited to:

- potential trade-offs between adverse and beneficial effects;
- the responsibility for effects management and whether there is the capacity and commitment to do so (this might include the costs of management actions and whether there has been any formal commitment to management, by the proponent or government);
- whether some groups affected are more vulnerable to effects than others;
- whether there is a high level of public concern regarding the issue or its management and whether perceived concerns are justifiable; and
- whether particular effects are “stand alone”, whether they will lead to other effects or act in combination with other effects to become cumulative effects.

In this context it may be essential to link the discussion to data, findings or proposed actions included in other required documents such as the Benefits Plan.

### 3.7 Follow-up Plans

In general terms follow-up includes monitoring of impacts and effects and associated audits to determine:

- that any terms and conditions of approval are met;
- the impacts and effects of the project;
- the effectiveness of effects management methods adopted; and to,
- strengthen future SEIA applications and management methods.

The Board, following review of the SEIS, will determine specific follow-up requirements, but proponents are expected to provide an overview of any proposed plans and programs as part of the SEIS to indicate its approach to these matters.

Proponents should include designs for follow-up monitoring and auditing programs, where, for example:

- effects are identified that are determined through the SEIA to warrant further and ongoing attention;
- predicted outcomes are uncertain;
- management methods are untried or their effectiveness is uncertain; or where,
- potential effects are of such public concern that a demonstration of actual outcomes is in the public interest.

## 4.0 The Socio-economic Impact Statement (SEIS)

The SEIS is the product of the SEIA, which synthesizes the assessment process followed, the conclusions reached and any commitments and recommendations made. The principles for SEIA were outlined in Section 4.0, above. The SEIS should reflect these, demonstrating:

- that the SEIA process was transparent and participative;
- use of integrated, interdisciplinary, rigorous, systematic and adaptive approaches;
- that the findings are practical, relevant, focused, and credible; and that,
- the proposed actions are cost-effective, efficient and purposive.